
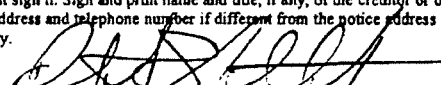


## Exhibit C

### Sample Proof of Claim

<b>United States Bankruptcy Court/Southern District of New York</b> Lehman Brothers Holdings Claims Processing Center c/o Epiq Bankruptcy Solutions, LLC FDR Station, P.O. Box 5076 New York, NY 10150-5076		PROOF OF CLAIM	
In Re: Lehman Brothers Holdings Inc., et al. Debtors.	Chapter 11 Case No. 08-13555 (JMP) (Jointly Administered)	Filed: USBC - Southern District of New York Lehman Brothers Holdings Inc., Et Al. 08-13555 (JMP) 0000026147	
Name of Debtor Against Which Claim is Held <b>LEHMAN COMMERCIAL PAPER, INC.</b>	Case No. of Debtor <b>08-13900</b>		
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503. Additionally, this form should not be used to make a claim for Lehman Programs Securities (See definition on reverse side.)		THIS SPACE IS FOR COURT USE ONLY	
Name and address of Creditor: (and name and address where notices should be sent if different from Creditor) <b>ALFRED H. SIEGEL, Chapter 11 Trustee of</b> <b>LBREP/L-Lehman SunCal Master I, LLC</b> <b>c/o WEILAND, GOLDEN, SMILEY, WANG EKVALL &amp; STROK, LLP</b> <b>650 Town Center Drive, Suite 950, Costa Mesa, California 92626</b> <b>Attention: Robert S. Marticello</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.	Court Claim Number: _____ (If known)
Telephone number: (714) 966-1000 Email Address: <a href="mailto:rmarticello@wgllp.com">rmarticello@wgllp.com</a>		Filed on: _____	
Name and address where payment should be sent (if different from above)		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.	5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim:  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries or commissions (up to \$10,950), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Up to \$2,425 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).  Amount entitled to priority: \$ _____
Telephone number: _____ Email Address: _____		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.	
1. Amount of Claim as of Date Case Filed: \$ Unliquidated claim for money damages If all or part of your claim is secured, complete Item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete Item 5. If all or part of your claim qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9), complete Item 6. <input type="checkbox"/> Check this box if all or part of your claim is based on a Derivative Contract.* <input type="checkbox"/> Check this box if all or part of your claim is based on a Guarantee.* <b>*IF YOUR CLAIM IS BASED ON AMOUNTS OWED PURSUANT TO EITHER A DERIVATIVE CONTRACT OR A GUARANTEE OF A DEBTOR, YOU MUST ALSO LOG ON TO <a href="http://www.lehman-claims.com">http://www.lehman-claims.com</a> AND FOLLOW THE DIRECTIONS TO COMPLETE THE APPLICABLE QUESTIONNAIRE AND UPLOAD SUPPORTING DOCUMENTATION OR YOUR CLAIM WILL BE DISALLOWED.</b> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of interest or additional charges. Attach itemized statement of interest or charges to this form or on <a href="http://www.lehman-claims.com">http://www.lehman-claims.com</a> if claim is a based on a Derivative Contract or Guarantee.			
2. Basis for Claim: Fraudulent conveyance, lender liability, etc. (see attached) (See instruction #2 on reverse side.)			
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)			
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____			
6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9): \$ _____ (See instruction #6 on reverse side.)			
7. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 8. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages and security agreements. Attach redacted copies of documents providing evidence of perfection of a security interest. (See definition of "redacted" on reverse side.) If the documents are voluminous, attach a summary. <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b> If the documents are not available, please explain: _____			
Date: 09/17/09	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. 		
FOR COURT USE ONLY <div style="border: 2px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <b>FILED / RECEIVED</b>    <b>SEP 21 2009</b>    <b>EPIQ BANKRUPTCY SOLUTIONS, LLC</b> </div>			

## INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

### Items to be completed in Proof of Claim form

#### Name of Debtor, and Case Number:

YOU MUST INDICATE THE SPECIFIC DEBTOR AGAINST WHICH YOUR CLAIM IS ASSERTED, INCLUDING THE NAME OF THE DEBTOR AND THE RELATED CASE NUMBER (DEBTORS AND CASE NUMBERS LISTED BELOW), IN THE SPACE ALLOTTED AT THE TOP OF THE CLAIM FORM.

08-13555	Lehman Brothers Holdings Inc.	08-13905	CES Aviation LLC
08-13600	LB 745 LLC	08-13906	CES Aviation V LLC
08-13885	Lehman Brothers Commodity Services Inc.	08-13907	CES Aviation IX LLC
08-13888	Lehman Brothers Special Financing Inc.	08-13908	East Dover Limited
08-13893	Lehman Brothers OTC Derivatives Inc.	09-10108	Luxembourg Residential Properties Loan Finance S.a.r.l.
08-13899	Lehman Brothers Derivative Products Inc.	09-10137	BNC Mortgage LLC
08-13900	Lehman Commercial Paper Inc.	09-10558	Structured Asset Securities Corporation
08-13901	Lehman Brothers Commercial Corporation	09-10560	LB Rose Ranch LLC
08-13902	Lehman Brothers Financial Products Inc.	09-12516	LB 2080 Kalakaua Owners LLC
08-13904	Lehman Scottish Finance L.P.	08-13664	PAMI Stader Arms LLC

If your Claim is against multiple Debtors, complete a separate form for each Debtor.

#### Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

#### 1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4, 5 and 6. Check the box if interest or other charges are included in the claim.

#### 2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.

#### 3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

#### 3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

#### 4. Secured Claim:

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

#### 5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

#### 6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. §503(b)(9)

State the value of any goods received by the debtor within 20 days before the date of commencement in which the goods have been sold to the debtor in the ordinary course of the debtor's business.

#### 7. Creditor:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

#### 8. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.

#### Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

## DEFINITIONS

#### Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

#### Creditor

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

#### Claim

A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101(5). A claim may be secured or unsecured.

#### Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the Claims Agent at the following address:

Lehman Brothers Holdings Claims Processing  
c/o Epiq Bankruptcy Solutions, LLC  
FDR Station, PO Box 5076  
New York, NY 10150- 5076

#### Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

#### Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

#### Claim Entitled to Priority Under 11 U.S.C. §507(a)

Priority claims are certain categories of unsecured Claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

#### Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

#### Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

#### Derivative Contract

A contract that is any of (i) a "swap agreement" as such term is defined in section 101(53B) of the Bankruptcy Code or (ii) a "forward contract" as such term is defined in section 101(25) of the Bankruptcy Code. A cash-market purchase or sale of a security or loan (i.e. any purchase or sale of a security or loan for settlement within the standard settlement cycle for the relevant market), exchange-traded future or option, securities loan transaction, repurchase agreement in respect of securities or loans, and any guarantee or reimbursement obligations which would otherwise be included in the definition of such terms in the Bankruptcy Code shall not be considered a Derivative Contract for the purposes of this definition nor shall any notes, bonds, or other securities issued by the Debtors or their affiliates (including, but not limited to, Lehman Brothers Holdings Inc., Lehman Brothers Treasury Co. B.V., Lehman Brothers Bankhaus AG, Lehman Brothers Holdings plc, Lehman Brothers Securities N.V., and Lehman Brothers (Luxembourg) Equity Finance S.A.).

#### Guarantee

A promise, representation or agreement to answer for the payment of some debt or the performance of some duty in case of the failure of another person or entity who is liable in the first instance.

#### Lehman Programs Securities

Lehman Programs Securities means those securities included on the Lehman Programs Securities list available on <http://www.lehman-docket.com> as of July 27, 2009.

## INFORMATION

#### Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim, or you may access the Claims Agent's system (<http://www.lehman-docket.com>) to view your filed proof of claim.

#### Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

Attorneys for Alfred H. Siegel,  
Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SANTA ANA DIVISION**

In re  
LBREP/L-Sun Cal Master I, LLC, et al.,  
Debtor.

Case No. 8:08-BK-15588-ES  
Chapter 11 Case  
(Jointly Administered with Case Nos.  
8:08-bk-15637-ES; 8:08-bk-15639-ES;  
and 8:08-bk-15640-ES)

Adversary Case No. \_\_\_\_\_

\_\_\_\_ Affects LBREP/L-SunCal Master I,  
LLC Only  
\_\_\_\_ Affects LBREP/L-SunCal McAllister  
Ranch, LLC Only  
\_\_\_\_ Affects LBREP/L-SunCal McSweeny  
Farms Only  
\_\_\_\_ Affects LBREP/L-SunCal Summerwind  
Ranch Only  
\_\_\_\_ Affects All Debtors,

**COMPLAINT:**

- (1) TO AVOID AND RECOVER  
FRAUDULENT CONVEYANCE  
PURSUANT TO 11 U.S.C. SECTIONS  
544(b) AND 550 AND CALIFORNIA  
CIVIL CODE SECTIONS 3439.04(a)(1);
- (2) TO AVOID AND RECOVER  
FRAUDULENT CONVEYANCE  
PURSUANT TO 11 U.S.C. SECTIONS  
544(b) AND 550 AND CALIFORNIA  
CIVIL CODE SECTIONS 3439.04(a)(2);
- (3) TO AVOID AND RECOVER  
FRAUDULENT CONVEYANCE  
PURSUANT TO 11 U.S.C. SECTIONS  
544(b) AND 550 AND CALIFORNIA  
CIVIL CODE SECTIONS 3439.05;
- (4) TO PRESERVE THE TRANSFERS  
FOR THE BENEFIT OF THE ESTATES  
PURSUANT TO 11 U.S.C SECTION  
551;
- (5) FOR IMPOSITION OF  
CONSTRUCTIVE TRUST;
- (6) FOR BREACH OF FIDUCIARY DUTY;
- (7) FOR BREACH OF DUTY OF GOOD  
FAITH AND FAIR DEALING;
- (8) FOR EQUITABLE SUBORDINATION;  
AND

ALFRED H. SIEGEL, Chapter 11 Trustee,  
Plaintiff,

v.

LEHMAN COMMERCIAL PAPER, INC.,  
a New York corporation; LBREP LAKESIDE  
SC MASTER I, LLC, a Delaware limited  
liability company; GRAMERCY  
WAREHOUSE FUNDING I, LLC, a Delaware  
limited liability company; and SQUARE  
MILE, an entity of unknown origin,

Defendants.

(9) FOR AWARD OF ATTORNEYS' FEES  
AND COSTS

Alfred H. Siegel, the duly appointed, qualified and acting chapter 11 trustee (the "Trustee" or "Plaintiff") of the administratively consolidated estates of LBREP/L-SunCal Masters I, LLC, LBREP/L-SunCal McAllister Ranch, LLC, LBREP/L-SunCal McSweeney Farms, and LBREP/L-SunCal Summerwind Ranch (collectively, the "Estates") hereby files this Complaint: (1) To Avoid and Recover Fraudulent Conveyance Pursuant to 11 U.S.C. §§ 544(b) and 550 and California Civil Code § 3439.04(a)(1); (2) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550 and California Civil Code § 3439.04(a)(2); (3) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550 and California Civil Code § 3439.05; (4) To Preserve Avoidable Transfer for the Benefit of the Estates Pursuant to 11 U.S.C. § 551; (5) For Imposition of Constructive Trust; (6) For Breach of Fiduciary Duty; (7) For Equitable Subordination; (8) For Declaratory Relief; and (9) For Award of Attorneys' Fees and Costs (the "Complaint") against Lehman Commercial Paper, Inc. ("Lehman Commercial"), LBREP Lakeside SC Master I LLC ("Lehman Lakeside"), Gramercy Warehouse Funding I, LLC ("Gramercy"), and Square Mile ("Square Mile") (collectively, the "Defendants"), and alleges that:

#### **STATEMENT OF JURISDICTION AND VENUE**

1. The Bankruptcy Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (C), (E), (H), (K), and (O), and 1334.

2. Venue properly lies in this judicial district in that this civil proceeding arises under title 11 of the United States Code as provided for in 28 U.S.C. § 1409(a).

3. This adversary proceeding arises out of and is related to the involuntary bankruptcy cases of the administratively consolidated estates of LBREP/L-SunCal Masters I, LLC ("Lehman/SunCal Master"), LBREP/L-SunCal McAllister Ranch, LLC ("McAllister Ranch LLC"), LBREP/L-SunCal McSweeney Farms ("McSweeney Farms

1 LLC"), and LBREP/L-SunCal Summerwind Ranch ("Summerwind Ranch LLC"), filed on  
2 September 10 and 11, 2008 (the "Petition Dates") and currently pending in the United  
3 States Bankruptcy Court for the Central District of California, Santa Ana Division.  
4 McAllister Ranch LLC, McSweeney Farms LLC, and Summerwind Ranch LLC collectively  
5 referred to as "Lehman/SunCal Subsidiaries." "Lehman/SunCal Master and the  
6 Lehman/SunCal Subsidiaries are collectively referred to as the "Debtors."

7  
8 **STATEMENT OF STANDING**

9 4. The Plaintiff, as the Trustee, has standing to bring this action pursuant to 11  
10 U.S.C. §§ 323, 544, 550, and 551.

11  
12 **PARTIES TO THE ACTION**

13 5. Plaintiff, Alfred H. Siegel, is the duly appointed, qualified and acting chapter  
14 11 trustee for the Estates. This action is brought by the Trustee in his representative  
15 capacity only.

16 6. The Trustee is informed and believes, and on that basis alleges, that  
17 defendant Lehman Commercial is a New York corporation with its principal place of  
18 business at 745 Seventh Avenue, New York, New York 10019.

19 7. The Trustee is informed and believes, and on that basis alleges, that  
20 Lehman Lakeside is a Delaware limited liability company with its principal place of  
21 business at is an individual residing at 3500 West Olive Avenue Suite 650, Burbank,  
22 California 915053.

23 8. The Trustee is informed and believes, and on that basis alleges, that  
24 defendant Gramercy is the administrative agent for the Second Lien creditors and is sued  
25 in this representative capacity.

26 9. The Trustee is informed and believes, and on that basis alleges, that  
27 defendant Square Mile is the administrative agent for the Third Lien creditors and is sued  
28 in this representative capacity.

**GENERAL ALLEGATIONS**

1  
2 10. The Trustee is informed and believes, and on that basis alleges, debtor  
3 Lehman/SunCal Master is a holding company, established to the fund the real estate  
4 development projects owned by each of the its four operating subsidiaries, *i.e.*, the debtor  
5 Lehman/SunCal Subidiaries and a non-debtor LBREP/L-SunCal Patterson Ranch, LLC.  
6 Debtor Lehman/SunCal Master is controlled by defendant Lehman Lakeside. Defendant  
7 Lehman Lakeside is a subsidiary of Lehman Bros. Real Estate Partners, LP  
8 ("LBREP") and an affiliate of defendant Lehman Commercial. More specifically,  
9 defendant Lehman Lakeside is the managing member and 90% equity owner of debtor  
10 Lehman/SunCal Master. The remaining 10% equity interest in debtor Lehman/SunCal  
11 Master is owned by SCC Ranch Venture, LLC, which is an affiliate of SCC Acquisitions,  
12 Inc. d/b/a SunCal Companies.

13 11. The Trustee is informed and believes, and on that basis alleges, debtor  
14 Lehman/SunCal Master's primary asset is its interest in its operating subsidiaries. Debtor  
15 Lehman/SunCal Master is the sole equity member of the debtors McAllister Ranch LLC,  
16 McSweeney Farms LLC, and Summerwind Ranch LLC, each of which, in turn, own real  
17 estate developments bearing the same name (collectively, the "Real Properties"). Each  
18 Lehman/SunCal Subsidiary has its own set of creditors and assets. The following is a  
19 more detailed discussion of the Real Properties:

**MCALLISTER RANCH**

20  
21 12. The Trustee is informed and believes, and on that basis alleges, debtor  
22 McAllister Ranch LLC owns the real estate development commonly known as "McAllister  
23 Ranch," which is located near Bakersfield in Kern County, California. The Trustee  
24 understands that McAllister Ranch is designed to be a 2070 acre master-planned  
25 community featuring a golf course, lake, and approximately 6,087 homes. All of the lots  
26 have been graded, and the first of five planned subdivisions is nearly complete. In  
27 addition, the golf course is completed and the clubhouse is framed and roofed. Defendant  
28

1 Lehman Commercial asserts that McAllister Ranch was worth \$123 million on an "as is"  
2 basis as of March 31, 2008 (approximately seven months prior to the Petition Dates).

3 **MCSWEENEY FARMS**

4 13. The Trustee is informed and believes, and on that basis alleges, debtor  
5 McSweeney Farms LLC owns the real estate development commonly known as  
6 "McSweeney Farms," which located near Hemet in Riverside County, California.  
7 McSweeney Farms is comprised of 673 acres, and a total of 1,640 lots are planned to be  
8 included thereon. Phase 1 of the project has been completed and sold out. The Trustee  
9 is informed and believes that hundreds of homes have been completed, and there are  
10 residents living in a substantial portion of these homes. Defendant Lehman Commercial  
11 asserts that McSweeney Farms was worth \$13,300,000 on an "as is" basis as of  
12 March 31, 2008.

13 **SUMMERWIND RANCH**

14 14. The Trustee is informed and believes, and on that basis alleges, debtor  
15 Summerwind Ranch LLC owns the real estate development commonly known as  
16 "Summerwind Ranch," which is located near Calimesa in Riverside County, California.  
17 Summerwind Ranch is comprised of 2,591 acres with 3,683 lots planned thereon.

18 15. The Trustee is informed and believes, and on that basis alleges, debtor  
19 Lehman/SunCal Master, as borrower, entered into three Lien Credit Agreements with  
20 defendant Lehman Commercial as an administrative agent and participant (collectively,  
21 the "Lien Credit Agreements"). Pursuant to the First and Second Lien Credit Agreements  
22 (collectively, the "January 2006 Loan"), which were entered into on or around January 19,  
23 2006, debtor Lehman/SunCal Master borrowed a total of \$320 million as follows: (1) a  
24 revolving credit facility of \$75 million and term loan facility of \$160 million under the First  
25 Lien Credit Agreement; and (2) a \$85 million term loan facility under the Second Lien  
26 Credit Agreement. Defendant Lehman Commercial participated in the January 2006  
27 Loans, and acted as the sole administrative agent, and Lehman Brothers, Inc. ("Lehman  
28 Brothers"), served as the sole lead arranger and syndicator. Defendant Lehman



1 Lakeside, Debtor's Lehman/SunCal Master's managing member, caused Lehman/SunCal  
2 Master's obligations under these agreements to be guaranteed by the Lehman/SunCal  
3 Subsidiaries, and secured by first and second liens cross-collateralized against the Real  
4 Properties and other assets. More specifically, defendant Lehman Commercial obtained a  
5 lien from its affiliate defendant Lehman Lakeside against debtor Lehman/SunCal Master  
6 for the full amount of the January 2006 Loan (the "Lehman/SunCal Master Lien"), as well  
7 as liens against each of the Lehman/SunCal Subsidiaries also in the full amount of the  
8 January 2006 Loan ("Lehman/SunCal Subsidiary Liens"). Therefore, a Lehman affiliated  
9 entity was the lender, administrative agent, arranger, syndicator, borrower, managing  
10 member of the borrower, and guarantor on the January 2006 Loans.

11 16. The Trustee is informed and believes, and on that basis alleges, as a result  
12 of the January 2006 Loan, the Debtors' were collectively saddled with \$320 million in  
13 secured debt and the significant interest thereon. However, Debtors did not receive the  
14 benefit of all the January 2006 Loan proceeds. Of the \$235 million allegedly loaned to  
15 Lehman/SunCal Master under the First Lien Credit Agreement, a \$144 million equity  
16 distribution (the "Dividend") was immediately paid from escrow to Debtor Lehman/SunCal  
17 Master's equity owners, of which 90%, \$117 million, was paid to Lehman Lakeside.  
18 Debtors appear to never have received the \$144 million, nor any value for the transfer of  
19 the Dividend.

20 17. The Trustee is informed and believes, and on that basis alleges, most of the  
21 \$320 million January 2006 Loan proceeds went to one Lehman entity or another. Besides  
22 the \$144 million Dividend, \$10.6 million was paid to Lehman Commercial for its  
23 arrangement and administrative fee. Approximately \$62 million went to repay another  
24 Lehman entity's, "Lehman, Ali," loans to the Lehman/SunCal Subsidiaries. This value  
25 received by the Debtors is offset by the fact that debtor McSweeney Farms LLC paid  
26 approximately \$21 million into escrow prior to closing.

27 18. The Trustee is informed and believes, and on that basis alleges, from  
28 escrow \$25 million was automatically set aside by escrow to fund a "Debt Service

1 Reserve" which the Debtors could not use, but served as defendant Lehman  
2 Commercial's collateral. Although this Debt Service Reserve which has also been  
3 characterized as the Development Account was allegedly intended to be used by the  
4 Debtors for various development and maintenance expenses, it appears that Lehman  
5 Commercial's unfair exercise of control agreements and its lack of consent effectively  
6 prohibited the use of these funds during the a substantial portion of the loan term.  
7 Moreover, it appears that Lehman Commercial unnecessarily caused the funds in the  
8 Development Account to be borrowed in order to increase its yield on its investment.  
9 Similarly, there was another \$25 million on the revolving credit line that was never made  
10 available to the Debtors between the January 19, 2006 funding date and March, 2007  
11 resulting in a combined \$50 million of lost liquidity of which Debtors did not receive the  
12 benefit.

13 19. Moreover, while the Lehman/SunCal Subsidiaries were forced to grant  
14 security interests in the Real Properties to secure the entire \$320 million in loans it  
15 Lehman/SunCal Master, each entity received very little of the loan proceeds. The  
16 following is a brief summary of the Trustee's findings regarding each Lehman/SunCal  
17 Subsidiary:

18 A. McAllister Ranch LLC: The Trustee is informed and believes, and on  
19 that basis alleges, in exchange for securing the entire \$320 million in loans to  
20 Lehman/SunCal Master, McAllister Ranch received only loan proceeds sufficient to  
21 replace the existing \$20 million first position lien, which was held by another  
22 Lehman-related entity and allegedly created on November 5, 2004.. Moreover, Lehman  
23 SunCal Master upstreamed approximately \$22.8 million of McAllister Ranch sale deposits  
24 in March, 2006 which were effectively used in the operating account to disburse to  
25 Lehman Commercial as part of the \$40 million in interest and principal it received as part  
26 of the \$235 million loan (\$144 million of which was disbursed as an allegedly as a  
27 dividend).

28

1           B.     McSweeney Farms LLC: The Trustee is informed and believes, and  
2 on that basis alleges, in exchange for securing the entire \$320 million in loans to  
3 Lehman/SunCal Master, McSweeney Farms LLC received only loan proceeds sufficient to  
4 replace the existing \$17.7 million first position lien, which was held by another  
5 Lehman-related entity and allegedly created on May 18, 2005. Moreover, on January 19,  
6 2006, through the escrow related to the funding of the loans, SunCal Master upstreamed  
7 approximately \$21.5 million of McSweeney Farms sale proceeds which were also  
8 effectively used to as part of the \$40 million in interest and principal Lehman Commercial  
9 received as part of the \$235 million loan (\$144 million of which was disbursed allegedly as  
10 a dividend).

11           C.     Summerwind Ranch LLC: The Trustee is informed and believes, and  
12 on that basis alleges, in exchange for securing the entire \$320 million in loans to  
13 Lehman/SunCal Master, Summerwind Ranch LLC received only loan proceeds sufficient  
14 to replace the existing \$24 million first position lien, which was held by another  
15 Lehman-related entity and allegedly created on May 3, 2005. It is unclear what other  
16 benefit Summerwind Ranch LLC received at this point.

17           20.    The Trustee is informed and believes, and on that basis alleges, In sum, the  
18 only concrete economic benefit received by the Lehman/SunCal Subsidiaries in exchange  
19 for securing Lehman/SunCal Master's obligations under First and Second Lien Credit  
20 Agreements (*i.e.*, the repayment of the \$320 million in loans) was funds sufficient to relay  
21 existing obligations to another Lehman-related entity, in amounts far less than that  
22 secured by the Real Properties. Clearly, the Lehman/SunCal Subsidiaries did not receive  
23 reasonably equivalent value.

24           21.    The Trustee is informed and believes, and on that basis alleges, on  
25 February 6, 2007, a Third Lien Credit Agreement was entered into by Lehman/SunCal  
26 Master, which allegedly provided for an additional \$75 million term loan, guaranteed again  
27 by the Lehman/SunCal Subsidiaries and secured by third priority liens ("Third  
28

1 Lien") against the Real Properties. Lehman/SunCal Master Lien, the Lehman/SunCal  
2 Subsidiary Liens and the Third Lien are collectively referred to as the "Transfers."

3 22. The Trustee is informed and believes, and on that basis alleges, just as with  
4 the January 2006 Loans, Lehman Commercial participated and served as the  
5 administrative agent, and Lehman Brothers served as sole arranger and syndicator with  
6 Lehman Lakeside as the managing member of the Debtors. It appears that the need for  
7 the Third Lien Credit Agreement was not contemplated when the First and Second Lien  
8 Credit Agreements were originated but needed because of cash flow shortages within the  
9 Debtors, and simultaneous pressure by Lehman Commercial for the Debtors to timely pay  
10 their obligations under the First Lien Credit Agreement. One year later, on February 14,  
11 2008, defendant Lehman Commercial resigned as administrative agent under the Second  
12 and Third Lien Credit Agreements and defendants Gramercy and Square Mile,  
13 respectively, became the administrative agents. From the \$75 million loaned to  
14 Lehman/SunCal Master under the Third Lien Credit Agreement, \$50 million was paid out  
15 of escrow directly to Lehman Commercial to pay down obligations on the First Lien Credit  
16 Agreement.

17 23. The Trustee is informed and believes, and on that basis alleges, the  
18 negotiations between Lehman Commercial and Lehman Lakeside essentially set the  
19 Debtors' up for default. For example, on January 31, 2008, Lehman Commercial, as the  
20 lien agent for all three Lien Credit Agreements, negotiated the Fourth Amendment and  
21 Waiver to the First Lien Credit Agreement (the "Amendment"), which required that the  
22 cash in the Development Account be *increased* from \$25 million to \$50 million by  
23 March 31, 2008. Then, 60 days later on March 31, 2008, Lehman Commercial declared a  
24 default due to the Debtors failure to increase the Development Account. Lehman  
25 Commercial knew or reasonably should have known that the Debtors would be unable to  
26 comply with the Amendment and come up with an additional \$25 million in cash 60 days.

27 24. The Trustee is informed and believes, and on that basis alleges, the other  
28 defaults declared by Lehman Commercial are equally suspect. Lehman Commercial

1 argues that the Debtors missed an interest payment, even though there was  
2 approximately \$25 million of cash in the Development Account, which was admittedly  
3 available to repay and prepay loans. Lehman Commercial argues that the Debtors failed  
4 to timely deliver financial statements, but the Debtors were under the control of Lehman  
5 Commercial's affiliate, Lehman Lakeside. Lehman Commercial further asserts that the  
6 Debtors failed to pay a \$100,000 administrative fee and maintain the necessary liquidity  
7 requirements, which was presumably caused by that fact that \$144 million of the  
8 January 2006 Loan proceeds were paid directly from escrow to Lehman/SunCal Master's  
9 owners and, primarily, Lehman Lakeside.

10 **SIGNIFICANT POST-PETITION EVENTS**

11 25. The Trustee is informed and believes, and on that basis alleges, on  
12 October 2, 2008, Lehman Commercial filed four motions for relief from the automatic stay  
13 (the "Lehman Relief Motions") in each individual case, which were originally scheduled for  
14 hearings on October 28, 2008. On October 14, 2008, a group of petitioning creditors filed  
15 an opposition to the Lehman Relief Motions. The Debtors, controlled by Lehman  
16 Lakeside, did not oppose the Lehman Relief Motions, arguing that the Debtors have no  
17 viable defenses to thereto.

18 26. The Trustee is informed and believes, and on that basis alleges, following  
19 the Debtors' refusal to oppose the Lehman Relief Motions, on or about October 15, 2008,  
20 a group of petitioning creditors filed a motion for order authorizing the appointment of a  
21 chapter 11 trustee (the "Trustee Appointment Motion"). The petitioning creditors argued  
22 that an independent trustee should be appointed to represent the interests of the Debtors'  
23 estates, especially in light of the affiliate relationship between Lehman Commercial, the  
24 lender and movant, and Lehman Lakeside, the managing member and majority owner of  
25 the Lehman/SunCal Master.

26 27. The Trustee is informed and believes, and on that basis alleges, on  
27 October 22, 2008, the Debtors answered the involuntary petitions, consented to the entry  
28 of the orders for relief, and then filed motions to convert the cases from chapter 11 to

1 chapter 7 (collectively, the "Motions to Convert"). The Debtors, controlled by Lehman  
2 Lakeside, argued that conversion was proper because there was no possibility to  
3 reorganize. Both Lehman Commercial and the Lehman-controlled Debtors opposed the  
4 Trustee Appointment Motion.

5 28. The Trustee is informed and believes, and on that basis alleges, following  
6 his appointment, the Trustee immediately moved the Court for authority to use cash  
7 collateral on an emergency basis (the "Cash Collateral Motion"). Lehman Commercial  
8 opposed the Cash Collateral Motion, despite the fact that the Trustee sought Court  
9 authority to use the cash in the Development Account for the sole purpose of preventing  
10 the neglect complained of in the Lehman Relief Motions, and which was originally caused  
11 by Lehman Commercial's own conduct. On November 6, 2008, the Court heard and  
12 approved the Cash Collateral Motion over Lehman Commercial's objection. Pursuant to  
13 the Court's order, the Trustee has authority to use the funds in the Development Account  
14 pursuant to the Court-approved budget to bring the deferred maintenance up to date  
15 (which maintenance Lehman Commercial refused to fund) and to preserve the value of  
16 the Real Properties.

17  
**FIRST CLAIM FOR RELIEF**

18 **(To Avoid Transfer and Recover Intentionally Fraudulently Conveyance**  
19 **under 11 U.S.C. §§ 544(b), 550, and Cal. Civ. Code § 3439.04(a)(1))**  
20 **(against Lehman Commercial, Gramercy and Square Mile)**

21 29. Plaintiff incorporates each and every allegation contained in paragraphs 1  
22 through 28, inclusive, as though fully set forth herein.

23 30. The Trustee is informed and believes, and on that basis alleges, the  
24 Transfers occurred during the four-year period immediately preceding the Petition Dates.

25 31. The Trustee is informed and believes, and on that basis alleges, the  
26 Transfers were made with the actual intent to hinder, delay or defraud the Estates'  
27 creditors.  
28

1 32. Trustee is informed and believes, and on that basis alleges, that the  
2 Lehman/SunCal Master Lien is in the amount of \$320 million. The Lehman/SunCal  
3 Subsidiaries Liens are cross collateralized in the amount of \$320 million. The Third Lien  
4 is in the amount of \$75 million.

5 33. The Trustee is informed and believes, and on that basis alleges, creditors  
6 existed at the time of the Transfers that remained unpaid as of the Petition Dates.

7 34. The Trustee is informed and believes, and on that basis alleges, the  
8 Transfers were made to or for the benefit of Lehman Commercial, Gramercy and Square  
9 Mile.

10 35. The Trustee is informed and believes, and on that basis alleges, the Debtors  
11 received no or inadequate consideration from Lehman Commercial, Gramercy and  
12 Square Mile in exchange for the Transfers.

13 36. Trustee is informed and believes, and on that basis alleges, that Lehman  
14 Commercial is an insider of the Debtors.

15 37. The Trustee is informed and believes, and on that basis alleges, that  
16 Debtors became insolvent as a result of the Transfers.

17 38. By reason of the foregoing, the Transfers are avoidable, Plaintiff is entitled  
18 to set aside and recover the Transfers pursuant to 11 U.S.C. § 544(b), California Civil  
19 Code §§ 3439.04(a)(1) and 3439.07, and 11 U.S.C. § 550.

20  
21 **SECOND CLAIM FOR RELIEF**  
22 **(To Avoid Transfer and Recover Constructively Fraudulently Conveyance**  
23 **under 11 U.S.C. §§ 544(b), 550 and Cal. Civ. Code §§ 3439.04(a)(2))**  
24 **(against Lehman Commercial, Gramercy and Square Mile)**

25 39. Plaintiff incorporates each and every allegation contained in paragraphs 1  
26 through 38, inclusive, as though fully set forth herein.

27 40. The Trustee is informed and believes, and on that basis alleges, the  
28 Transfers occurred during the four-year period immediately preceding the Petition Dates.

29 41. Trustee is informed and believes, and on that basis alleges, that the  
30 Lehman/SunCal Master Lien is in the amount of \$320 million. The Lehman/SunCal

1 Subsidiaries Liens are cross collateralized in the amount of \$320 million. The Third Lien  
2 is in the amount of \$75 million.

3 42. The Trustee is informed and believes, and on that basis alleges, creditors  
4 existed at the time of the Transfers that remained unpaid as of the Petition Dates.

5 43. The Trustee is informed and believes, and on that basis alleges, the  
6 Transfers were made to or for the benefit of Lehman Commercial, Gramercy and Square  
7 Mile.

8 44. The Trustee is informed and believes, and on that basis alleges, the Debtors  
9 received no or inadequate consideration from Lehman Commercial, Gramercy and  
10 Square Mile in exchange for the Transfers.

11 45. The Trustee is informed and believes, and on that basis alleges, at the time  
12 of the Transfers, the Debtors were engaged or were about to engage in a business or a  
13 transaction for which the remaining assets of the Debtors were unreasonably small in  
14 relation to the business or transaction.

15 46. The Trustee is informed and believes, and on that basis alleges, at the time  
16 of the Transfers, the Debtors intended to incur, or believed or reasonably should have  
17 believed that they would incur, debts beyond their ability to pay as they became due.

18 47. The Trustee is informed and believes, and on that basis alleges, Lehman  
19 Commercial, Gramercy and Square Mile did not take the Transfers for a reasonably  
20 equivalent value or in good faith.

21 48. By reason of the foregoing, the Transfers are avoidable, Plaintiff is entitled to  
22 set aside and recover the Transfers pursuant to 11 U.S.C. § 544(b), California Civil Code  
23 §§ 3439.04(a)(2) and 3439.07, and 11 U.S.C. § 550.

24  
25 **THIRD CLAIM FOR RELIEF**  
26 **(To Avoid Transfer and Recover Constructively Fraudulently Transferred**  
27 **Property under 11 U.S.C. §§ 544(b), 550 and Cal. Civ. Code §§ 3439.05)**  
28 **(against Lehman Commercial, Gramercy and Square Mile)**

29 49. Plaintiff incorporates each and every allegation contained in paragraphs 1  
30 through 48, inclusive, as though fully set forth herein.



1 50. The Trustee is informed and believes, and on that basis alleges, the Debtors  
2 made the Transfers to and for the benefit of Lehman Commercial, its affiliates, Gramercy  
3 and Square Mile.

4 51. The Trustee is informed and believes, and on that basis alleges, the Debtors  
5 did not receive reasonably equivalent value for making the Transfers.

6 52. The Trustee is informed and believes, and on that basis alleges, at the time  
7 of the Transfers, the Debtors were either insolvent and/or were rendered insolvent as a  
8 result of the Transfers.

9 53. The Trustee is informed and believes, and on that basis alleges, creditors  
10 existed at the time of or prior to the Transfers that remained unpaid as of the Petition  
11 Dates.

12 54. By reason of the foregoing, the Transfers are avoidable, Plaintiff is entitled to  
13 set aside and recover the Transfers pursuant to 11 U.S.C. § 544(b), California Civil Code  
14 §§ 3439.05 and 3439.07, and 11 U.S.C. § 550.

15  
16 **FOURTH CLAIM FOR RELIEF**  
17 **(To Preserve Transfer for the Benefit of the Estates**  
**Pursuant to 11 U.S.C. § 551)**  
**(against Lehman Commercial, Gramercy and Square Mile)**

18 55. Plaintiff incorporates each and every allegation contained in paragraphs 1  
19 through 54, inclusive, as though fully set forth herein.

20 56. Pursuant to 11 U.S.C. § 551, the Transfers are preserved for the benefit of  
21 the Estates as the Transfers are avoidable under 11 U.S.C. §§ 544 and 550 as set forth  
22 above.

23  
24 **FIFTH CLAIM FOR RELIEF**  
25 **(For Imposition of Constructive Trust)**  
**(against Lehman Commercial, Gramercy and Square Mile)**

26 57. Plaintiff incorporates each and every allegation contained in paragraphs 1  
27 through 56, inclusive, as though fully set forth herein.

28

1 58. The Trustee is informed and believes, and on that basis alleges, the  
2 Transfers are fraudulent transfers for less than reasonably equivalent value.

3 59. The Trustee is informed and believes, and on that basis alleges, Lehman  
4 Commercial, Gramercy and Square Mile were unjustly enriched as a result of the  
5 Transfers.

6 60. By reason of the foregoing, Plaintiff is entitled to the imposition of a  
7 constructive trust as of the date of the Transfers for the benefit of the Estates as of the  
8 Petition Date.

9  
10 **SIXTH CLAIM FOR RELIEF**  
11 **(For Breach of Fiduciary Duty)**  
12 **(against Lehman Commercial and Lehman Lakeside)**

13 61. Plaintiff incorporates each and every allegation contained in paragraphs 1  
14 through 60, inclusive, as though fully set forth herein.

15 62. The Trustee is informed and believes, and on that basis alleges, Lehman  
16 Lakeside, as the managing member of debtor Lehman SunCal Master, which is the 100%  
17 member of the remaining debtors, has fiduciary duties to the Debtors and their creditors.  
18 Lehman Commercial, Lehman Lakeside's affiliate and recipient of, among other things,  
19 the Transfers, exercised sufficient control over the Debtors through, at a minimum, the  
20 affiliate relationship with Lehman Lakeside, to be considered an insider with fiduciary  
21 duties to the Debtors and their creditors.

22 63. The Trustee is informed and believes, and on that basis alleges, Lehman  
23 Lakeside and Lehman Commercial breached their fiduciary duties to Debtors and their  
24 creditors, by, among other things set out in more detail above, causing the Debtors to  
25 agree to the Transfers when they did not receive reasonably equivalent value for these  
26 liens, and agreeing to loan terms which left insufficient funds for the development of the  
27 Real Properties, and causing the Debtors to agree to an increased reserved account  
28 which was unsustainable. Moreover, by permitting a \$144 million distribution of equity  
through the proceeds of development loans with no benefit to the Debtors, it caused

1 interest and principal obligations which burdened the Debtors to such an extent that it  
2 resulted in inadequate liquidity to sustain the operations.

3 64. The Trustee is informed and believes, and on that basis alleges, these  
4 breaches caused the Debtors' insolvency and inability to pay their debts as they came  
5 due.

6 65. The Trustee is informed and believes, and on that basis alleges, Debtors  
7 and their other creditors who did not know or have reason to know about the Transfers  
8 have been injured in an amount to be proven at trial.

9 66. By reason of the foregoing, Plaintiff is entitled to damages in an amount to  
10 be proven at trial. Because Lehman Commercial and Lehman Lakeside's conduct was  
11 malicious, oppressive and in open disregard for the rights of others, the Plaintiff is entitled  
12 to exemplary damages in an amount to be proven at trial.

13  
14 **SEVENTH CLAIM FOR RELIEF**  
15 **(For Breach of Implied Covenant of Good Faith and Fair Dealing)**  
16 **(against Lehman Commercial)**

17 67. Plaintiff incorporates each and every allegation contained in paragraphs 1  
18 through 66, inclusive, as though fully set forth herein.

19 68. The Trustee is informed and believes, and on that basis alleges, defendant  
20 Lehman Commercial owed Debtors the implied covenant of good faith and fair dealing  
21 pursuant to the First, Second and Third Lien Credit Agreements in which Lehman  
22 Commercial impliedly covenanted that it would, in good faith and in the exercise of fair  
23 dealing, deal with debtor Lehman/SunCal Master fairly and honestly and do nothing to  
24 impair, interfere with, hinder or potentially injure its rights.

25 69. The Trustee is informed and believes, and on that basis alleges, defendant  
26 Lehman Commercial breached the implied covenant of good faith and fair dealing, by,  
27 among other things, the acts detailed above, which may not constitute breach of contract,  
28 but which are contrary to the First, Second and Third Lien Credit Agreements purpose of  
loans, i.e. real estate development. These acts include, at a minimum, structuring the

1 First, Second and Third Lien Credit Agreements, and related terms, so that sufficient  
2 funds for the real estate development projects did not exist upon funding, refusing to allow  
3 Debtors to use the funds in the Debt Servicing Account/Development Account to service  
4 the January 2006 Loan, and requiring terms which Lehman Commercial knew or should  
5 have known Debtors could not comply with such as the increased Debt Servicing  
6 Account/Development Account withholding and using these terms to call a default on the  
7 January 2006 Loan.

8 70. The Trustee is informed and believes, and based thereon alleges, Debtors  
9 performed all acts, duties and responsibilities required of it under the First, Second and  
10 Third Lien Credit Agreements except that which was prevented or caused by Lehman  
11 Commercial's improper conduct.

12 71. By reason of the foregoing, Plaintiff is entitled to damages in an amount to  
13 be proven at trial.

14  
15 **EIGHTH CLAIM FOR RELIEF**  
**(For Equitable Subordination)**  
16 **(against Lehman Commercial, Gramercy and SquareMile)**

17 72. Plaintiff incorporates each and every allegation contained in paragraphs 1  
18 through 71, inclusive, as though fully set forth herein.

19 73. The Trustee is informed and believes, and on that basis alleges, Lehman  
20 Commercial, Gramercy and SquareMile are the recipients of the Lehman/SunCal Master  
21 Lien, the Lehman/SunCal Subsidiary Liens, and the Third Lien, respectively. Collectively  
22 these liens are in the amount of no less than \$395 million and Lehman Commercial,  
23 Gramercy and SquareMile have asserted or will assert first, second and third priority  
24 secured claims against the Estates for this amount.

25 74. The Trustee is informed and believes, and on that basis alleges, Lehman  
26 Commercial has engaged in inequitable conduct described in more detail above including  
27 causing the Debtors, through its affiliate Lehman Lakeside, to agree to the  
28 Lehman/SunCal Master Lien, the Lehman/SunCal Subsidiary Liens and the Third Lien

1 when they did not receive reasonably equivalent value for these liens, causing the  
2 Dividend to its affiliate Lehman Lakeside which left insufficient funds for the development  
3 of the Real Properties, and causing the Debtors to agree to an increased reserved  
4 account which was unsustainable.

5 75. The Trustee is informed and believes, and on that basis alleges, Lehman  
6 Commercial's misconduct resulted in injury to the Debtors and their creditors by putting  
7 the Debtors in insolvency, unable to pay their debts as they came due in an amount to be  
8 proven at trial but, at a minimum, in an amount equivalent to the Dividend plus interest.

9 76. By reason of the foregoing, Plaintiff is entitled to equitably subordinate  
10 Lehman Commercial's, Gramercy's and SquareMile's claims in an amount to be proven at  
11 trial but, at a minimum, in the amount of the Dividend, plus interest, which result is not  
12 inconsistent with the purposes of the Bankruptcy Code.

13  
14 **NINTH CLAIM FOR RELIEF**  
15 **(For Award of Attorneys' Fees and Costs Pursuant to Rule 7008(b)**  
16 **of the Federal Bankruptcy Rules)**  
17 **(against all Defendants)**

18 77. Plaintiff incorporates each and every allegation contained in paragraphs 1  
19 through 76, inclusive, as though fully set forth herein.

20 78. Based on the foregoing allegations, Plaintiff is entitled to reasonable  
21 attorneys' fees and costs resulting from bringing the instant action.

22 **WHEREFORE**, Plaintiff prays that this Court enter a judgment against Defendants  
23 as follows:

24 1. Avoiding the Transfers and declaring that the Transfers be annulled and  
25 rendered void as fraudulent transfers and for recovery of the Transfers for the benefit of  
26 the Estates against Lehman Commercial, Gramercy and Square Mile.

27 2. For preservation of the Transfers for the benefit of the Estates.

28 3. For imposition of a constructive trust as of the date of the Transfers for the  
benefit of the Estates.

1           4.     For a money judgment against Lehman Commercial and Lehman Lakeside  
2 for breach of their fiduciary duties.

3           5.     For the equitable subordination to general unsecured creditors of all liens  
4 created under the First, Second and Third Credit Agreements and for the preservation of  
5 such liens for the benefit of the Estates;

6           6.     Plaintiff be awarded the Estates' costs and attorneys' fees incurred in this  
7 action.

8           7.     For award of exemplary damages.

9           8.     For pre-judgment and post-judgment interest at the maximum legal rate.

10          9.     For such other and further relief as this Court may, in its discretion, deem  
11 just and proper.

12

13 Dated: November \_\_\_\_\_, 2008

14

15

By: \_\_\_\_\_

16

Attorneys for Alfred H. Siegel,  
Chapter 11 Trustee

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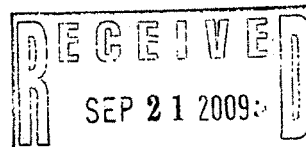
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